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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/935,936

08/23/2001

Donald G. Carpenter

1440

7590

09/15/2004

LANGDALE, VALLOTTON ET AL.
1007 North Patterson Street
Valdosta, GA 31603

EXAMINER

PONOMARENKO, NICHOLAS

ART UNIT

PAPER NUMBER

2834

DATE MAILED: 09/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/935,936

Applicant(s)

CARPENTER, DONALD G.

Examiner

Nicholas Ponomarenko

Art Unit

2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. In view of the Supplemental Appeal Brief filed on June 29, 2004, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "means for converting the kinetic energy", which are functional, must be shown or the feature(s) canceled from the claim(s). Provided drawings fail to show a functional or operational device, as explained below in this Office action. No new matter should be entered.

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3. The drawings are objected to under 37 CFR 1.83(a) because they fail to identify the following elements:

a) "sleeve or tube 73" (from Fig. 8B) in Fig. 6, as described in the specification (page 33, line 9).

b) Structural relationship between rods, connected to cylinders 21 and 22, and rods 51 and 51A (Fig. 6 and 7).

c) Structural relationship between rods 72 and 82 (Fig. 8A and 8B) with the rest of the assembly.

Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application.

Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the

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page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to because no drawing or view is present to be suitable for publication in the **Official Gazette** as required per MPEP 608.02(j). Correction is required.

Specification

5. The specification is objected to under 37 CFR 1.71 because it does not contain a written description of the invention with specific details on how to make or use the invention, in full, clear, concise, and exact terms as to enable a person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and the specification does not set forth the best mode contemplated by the inventor of carrying out his invention. Specifically, the disclosure failed to provide information about the structure of the device, as it is shown in the drawings (Fig. 3, 6, 7, 8A, 8B), in a clear and concise language to convey to one of ordinary skill in the art understanding of the structure and its functionality because the disclosure replete with statements which are confusing, not correct, or contradict laws of physics. For example:

On page 1, the phrase "No-one is really certain about the physical

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principles that enables an electrical conductor, when moved relative to magnetic field, to produce an electrical current" is contradictory or speculative.

On page 4, lines 11-16, applicant describes a concept of generation based on "excess" energy in a closed system, which contradicts the laws of thermodynamics (see explanation in par. 10 in this Office action below).

On page 6, par. 22, applicant makes a statement, that his device utilizes energy "transformations between system", which is not correct, because applicant has only ONE system, not two (see explanation in par. 10 of this Office action below).

On page 6, line 2, not clear what word "str" means.

6. The specification has not been checked to the extent necessary to determine the presence of all possible errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 1-8 were rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly

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connected, to make and/or use the invention.

Specifically, claim 1 has “means for converting kinetic energy ... into electrical energy”. This claim invokes statute 35 USC 112, sixth paragraph, by using the phrase “means for” and by modifying the phrase with functional language. Such claim must be interpreted in view of the specification. The specification, as is shown above in this Office action, is not describing a structure or a device in such a way as to enable the operation or to provide information for making or using the claimed device.

Claims 2-8 are indefinite because they depend on the rejected claim and do not correct the noted problem.

Claim Rejections - 35 USC § 101

9. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

10. Claims 1-8 are rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a known asserted utility or a well established utility.

It is Examiner's understanding that the claimed invention is based on incorrect understanding and/or application of the laws of thermodynamics, and that Applicant made an attempt to create a device, which will work without an external source of energy, which is not possible according to the law of conservation of energy. The following explanation shows why the claimed

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invention lacks utility.

The concept of the claimed system is in the premonition that one can generate energy if one could utilize the differences of kinetic energies from two kinetic systems. Additionally, these kinetic differences can be controlled and sustained indefinitely. Specifically, a small mass is moved from the First Kinetic System to the Second Kinetic System and back. The kinetic energy of the moved small mass carries that energy, which is utilized for moving cylinders, rods and wheels connected to the electrical generator. Important to note, that Applicant does not provide a source of energy for these operation and argues that his system will function as disclosed because he has discovered the unknown arrangement or phenomenon, which can create energy and does not break laws of conservation of energy, because in his system is a TWO independent systems, not a ONE as defined by the law of conservation of energy. Applicant believes that his claimed invention performs a “transformation between systems” (page 6, par. 22). **This assertion is the principal mistake in the disclosure and the reason for the lack of the device operability/utility.**

The Applicant provides definitions of the Principle of the Conservation of Energy in his specification, but he fails to apply this principle correctly to his device. For example, the Principal of the Conservation of Energy states that “the sum of total of all the energy within any given boundary, through which energy is not allowed to pass, remains constant.” Please note, that it is important to have two conditions for the application of the Principal of Conservation of Energy: first – we must have a “given boundary”, which is also

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known in physics as a “closed system”; second – no energy is allowed to pass through this boundary or we should not have any interaction with the external to this boundary world. Both requirements are met in the design of the claimed system – it is a closed system and it has no energy input or output to the system. For these reasons the claimed system cannot be considered as a “means for converting kinetic energy into electrical energy”, since NO ENERGY source exist in the claimed system, but applicant claims that all energy is CREATED within the boundary of the system, which is impossible.

11. Claims 1-8 also rejected under 35 U.S.C. 112, first paragraph. Specifically, since the claimed invention is not supported by either a clearly asserted utility or a well established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention.

12. When a patent applicant presents an application describing an invention that contradicts known scientific principles, or relies on previously undiscovered scientific phenomenon, the burden is on the examiner simply to point out this fact to the appellant... The burden shifts to appellant to demonstrate either that his invention, as claimed, is operable or does not violate basic scientific principles, or that those basic scientific principles are incorrect. *As stated by the Patent Office Board of Appeals, Newman v. Quigg 681 F.Supp 16, at18, 5 U.S.P.Q. 2d 1880(1988).*

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Applicants are required to furnish a working model of their invention
in order to demonstrate its operability. See MPEP § 608.03; 37 CFR 1.91.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant(s) disclosure.

14. When the claims are amended, applicant(s) should state in detail where in the original disclosure or in the drawings the amended features find support. **No new matter may be introduced.**

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas Ponomarenko whose telephone number is (571) 272- 2033, Fax: (571) 273-2033, or to his SPE Darren Schuberg – (571) 272-2044.

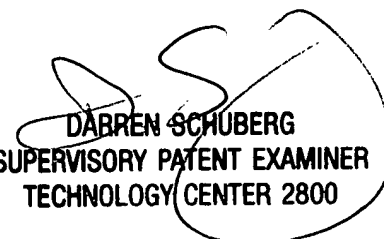
16. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 2800 Customer Service
Phone: (571) 272-2815

np

September 8, 2004



Nicholas Ponomarenko
Primary Examiner
Technology Center 2800



DARREN SCHUBERG
SUPERVISORY PATENT EXAMINER
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